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January 29, 2009

**PENNSYLVANIA BULLETIN NO. PA330-9-1**

**SUBJECT: MGT – 2009 Food Security Act (FSA) Compliance Status Reviews**

**PURPOSE: To transmit procedures for completion of FY 2009 FSA Compliance Status Reviews.**

**EXPIRATION DATE:** December 1, 2009

**Action Required by:** Complete Field Reviews by August 15, 2009  
Complete Online Data Entry by October 31, 2009

**Background:** NRCS annually reviews a percentage of tracts operated by producers receiving USDA benefits for the current year. The Food Security Act Compliance Tracts to be reviewed in 2009 have been posted on My.NRCS.

**Directions:** Supervisory District Conservationists are responsible for completion of Compliance Status Reviews including online data entry for their field team. A listing of tracts to be reviewed and the operators can be found on My.NRCS/Field Tools. Go to the Accountability section and click on FSA Compliance Reviews. To this list the DC will add as needed the following tracts:

- Tracts owned by USDA (FSA and NRCS) employees. These will be reviewed at least once every three years. (The program manager will supply the list.)
- Tracts referred by other USDA agencies
- Tracts of USDA participants requesting reinstatement (will come via FSA).
- Tracts where a variance or exemption was granted the previous year.
- CRP contracts that are early terminations.
- Tracts for five percent of all FSA Farm Credit Loans. (The program manager will provide these to you so don't request them from your local FSA office.)

Field reviews shall be conducted at a time that is best to evaluate the conservation practices that make up the approved conservation system. For most situations this is after crops have been planted but before they have grown so much as to make tillage and crop residue determinations difficult. NRCS shall notify the program participant in writing when a tract under his or her control has been selected for a compliance review. Notification shall be given at least 15 days before but not more than 30 days from the date of the review. The participant and/or landowner should be invited, but is not required to participate in the compliance review, unless the compliance review is for purposes of reinstatement. The program manager will send you an electronic version of the letter for your use.

If for a valid reason you need to replace a tract (e.g. the producer didn't receive any payments in the past year), get a valid tract from the county Farm Service Agency office, check the "**Not a Valid Tract**" button on the data entry form and enter the replacement tract number when



prompted by the program. The replacement tract does not have to be operated by the same producer as the original tract. Please remember that during the compliance review both HEL and wetlands are checked. If a tract doesn't have HEL always check for wetland violations.

If a tract number on the random tract list has been reconstituted by FSA into two or more tracts, all the resulting tracts shall be included in the compliance review. Each separate tract shall be entered into the database separately, and coded as an "R" category.

Remember that variances are limited to only three categories, **minor** technical violation (approved by DC), special conditions (usually related to weather in more than one county, approved by STC) and extreme personal hardship (approved by STC).

If a non-compliance situation is encountered during the field review, NRCS shall provide official notification in writing to all persons having an interest in the tract or farm (operator and owner, if not the same person) within ten calendar days following an NRCS determination that a USDA participant is in **potential** violation of HELC or WC provisions. The letter is called a "preliminary technical determination" and should describe in detail the elements of violation and provide appeal rights. The program manager will send you an electronic template of the letter for you to modify according to the need. Copies of the notification shall be sent to the Conservation District and the Farm Service Agency County Office. NRCS shall also request form FSA-569 from the FSA County Office within seven (7) calendar days of making a compliance violation determination. If not contested by the producer, the preliminary technical determination becomes final after 30 days. After this time the completed form FSA-569 will be provided to the FSA County Office to inform them of the final technical determination made by NRCS. If the producer is not in agreement with the preliminary technical determination, he/she can request reconsideration with a field visit from the NRCS staff or mediation (mediation may involve a cost to the producer).

For handling reports by the public of possible noncompliance (whistleblowers) contact the program coordinator immediately since NRCS only has 30 days to do the compliance review.

The Compliance Status Reviews manual can be downloaded from the "**Help**" tab on the same Food Security Act Compliance Reviews tool. From here you can also access the National Food Security Manual, section 518.

**Contact:** If you have any questions regarding this process, please contact Noel Soto, NRCS State Appeals Coordinator, at 717-237-2173 or [Noel.Soto@pa.usda.gov](mailto:Noel.Soto@pa.usda.gov).

/s/ Gary P. Smith, Acting

CRAIG R. DERICKSON  
State Conservationist

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